

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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In the Matter of)
)
Federal-State Joint Board on)
Universal Service)
)
Access Charge Reform,)
Price Cap Performance Review)
for Local Exchange Carriers,)
Transport Rate Structure)
and Pricing, End User Common)
Line Charge)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 96-45

CC Dockets Nos. 96-262, 94-1,
91-213, 95-72

**COMMENTS OF
THE RURAL TELEPHONE COALITION**

The Rural Telephone Coalition ("RTC") submits these comments in response to the petitions for reconsideration of the Fourth Order on Reconsideration (published January 23, 1997, 63 FR 2094) filed by the North Dakota Public Service Commission, the South Dakota Public Utilities Commission and the Washington Utilities and Transportation Commission.

The RTC is comprised of the National Rural Telecom Association ("NRTA"), the National Telephone Cooperative Association ("NTCA") and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"). Together, the three associations represent more than 850 small and rural telephone companies.

Each of the State petitions is couched as a request that the Commission reconsider its determination to change the bandwidth that defines voice grade service supported by federal

universal service. What the states really seek, however, is reconsideration of the decision to define as voice grade service the level of universal service required and supported initially by the federal support mechanism,. The RTC was a strong supporter in Congress for the "evolving" definition of supported universal service enacted in §254(c) (1) of the 1996 Act and does not regard the initial voice grade service definition as the final word on the national universal service standard. However, the Commission's decision -- at this point in its initial implementation -- to rectify its error in translating the voice grade service standard into bandwidth was the only rational choice when viewed in light of its decision as a whole.

The definition recommended by the Joint Board and adopted by the Commission at this stage of implementation limits federal universal support and narrowly defines the services eligible for that support. In the May 8, 1997 Report and Order, the Commission determined that voice grade access to the Public Switched Network is a core telecommunications service to be included from the outset in the definition of universal service under Section 254(c)(1) and eligible for federal universal service support. It said "voice grade access, and not high speed data transmission," is the appropriate goal of universal service at this time. That limiting approach was necessary because the Commission also held that a local exchange carrier could only receive universal service support if it already provided the services in the definition, subject to narrow leeway for implementing some specific elements of the chosen core definition, such as single party service, that had not yet been implemented nationwide.

In adopting the Joint Board recommendation that voice grade access should occur in the frequency range between 500 Hertz and 4,000 Hertz, the Commission did not mean to change its initial core service definition. Indeed , the Commission specifically concluded that higher

quality access links needed to provide a sufficient telecommunications link to an Internet service provider should not yet be included among the services designated for support under section 254(c)(1).¹

In the Fourth Order on Reconsideration, the Commission, on its own motion, reconsidered its specification of bandwidth for voice grade access and concluded that the bandwidth should be, at a minimum, between 300 Hertz to 3,000 Hertz. In doing so, it noted that the American National Standards Institute(ANSI) defined voice grade bandwidth as 300 Hertz to 3,000 Hertz. It justified its reconsideration by stating that it did not intend to impose a more onerous definition of voice grade access than those generally established under existing industry standards. It noted that networks utilizing loading coils may experience difficulty operating properly at frequencies exceeding 3,400 Hertz.

The Universal Service Order mandates that an eligible carrier must already provide the defined universal services, with only minimal leeway to complete deployment of defined characteristics of universal service such as single party service in order to receive universal service funding. Conceptually, the RTC supports expansion of the definition of universal service to include bandwidth beyond that which the Commission originally determined. However, expansion of the bandwidth requirement without corresponding inclusion of advanced services in order to receive funding is short-sighted. Until the Commission revisits and provides for support while a ETC is upgrading to an "evolved" definition of universal service, changing the definition beyond what carriers can already provide creates a Catch 22 situation by denying the carrier

¹ *Report and Order*, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (rel. May 8, 1997) (para. 83).

support because it has not yet upgraded.

The RTC has a strong tradition of advocacy for the quick deployment of high capacity bandwidth to rural areas, and its members have been among the first to upgrade and maintain high quality services in rural areas. In our view, the Commission will have to correct the anomaly in its rules to ready itself to evolve the universal service definition to satisfy the statutory principles over time. However, until then, it cannot simply raise the required characteristics beyond what is already available without providing for the necessary support, and it has not done that here.

The Commission correctly recognized that many loops will require significant upgrades to comply with the additional 500 Hertz level sought by petitioners, a level which does not guarantee faster access to the Internet in any event. Some attempt to quantify the additional cost of this requirement is needed before it is reimposed. Additionally, cost recovery should be ensured coincident with the requirement. The existing indexed cap on universal service support already limits support available during the transition that ends on December 31, 2000 for rural telephone companies. The added costs should be quantified and the indexed cap removed to ensure support for the higher bandwidth requirement.

It is essential that federal universal service policies and rules provide "sufficient"² support if it requires higher bandwidths than the industry standard for voice grade quality. Setting mandatory standards that cannot be economically achieved without universal service while failing to provide that support is likely to cause public injury rather than yield consumer benefits and may amount to confiscation. Whatever standard is dictated requires a clear

² Section 254(b)(5).

affirmation of support. The Act provides for an evolving definition of "universal service" and permits the Commission to periodically define and redefine supported services, taking into account advances in telecommunications and information technologies and services.³ The Commission is thus free to change its definition of voice grade access in the context of a further proceeding to consider changes in demand for and use of transmission links for Internet and other services that demand greater bandwidth. The RTC encourages such progressive changes in order to accommodate the evolution of available services. Such further proceeding must necessarily consider how eligible carriers will receive "adequate" and "sufficient" support to provide the greater bandwidth needed to accommodate the changing or increased demand for greater bandwidth.

The RTC is well aware that the current bandwidth specification for voice grade access (300 to 3000 Hertz) may not be forward looking in view of the phenomenal growth and evolving importance of the Internet. However, it is consistent with the Commission's decision not to provide support for higher quality access to the Internet and advanced services. If the Commission decides to increase the voice grade bandwidth to 300 to 3500 Hertz as requested, it must revisit the issue of support for access at the higher speeds needed for faster Internet access. Neither existing support mechanisms nor proposed ones provide adequate support to fund the additional investment needed to make all of the existing plant capable of supporting the larger bandwidth needed for faster Internet access.

RTC members are anxious to upgrade their plant where necessary to enable access at higher speeds and believe upgrades can be accomplished over time, but cannot fulfill their

³ Section 254(c)(1).

responsibilities in the face of forced transition periods absent adequate recovery. Further, plant upgrades require long lead times that take into account the seasonal nature of construction work in some climates, labor availability and other factors. Companies are already faced with numerous uncertainties that relate to the coming of competition and changes in access, separations and, most of all, universal service. Under these circumstances, wise business management practices counsel for deploying higher quality bandwidth in those instances where demand ensures cost recovery. The Commission should not dictate results that require companies to make otherwise imprudent investment decisions without it revisiting its basic policy decision on support for transmission links to enable Internet access.

IV. CONCLUSION

In conclusion, the RTC supports the concept that the FCC increase the bandwidth beyond that necessary for voice grade access. However the FCC cannot do this unless it recognizes the need to include the access to advanced services in its definition of universal service in order to sufficiently fund the necessary upgrades to ensure that services and rates in rural America are comparable to these in urban America.

Respectfully Submitted,

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